IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Jai Singh Bhati & ors. Versus State of Rajasthan & ors.

S.B. Criminal Misc. Petition No.1481/2006

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Date of Order: December 04, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. D.N. Yadav, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Arun Ranga, for the non-petitioner No.3.

BY THE COURT:

By S.B. Civil Miscellaneous Application No.734/2006, the petitioners seek impleading Smt Laxmi as a party non-petitioner No.3.

Having regard to the facts and circumstances of the case, the application is allowed and Smt. Laxmi, who was said to be the victim of the offence, is impleaded as non-petitioner No.3. Amended cause title has been filed and the same may be placed at the appropriate place in the file.

Issue notice to the newly impleaded non-petitioner No.3. Non-petitioner No.3 Smt. Laxmi herself is present in the Court, who has been identified by her counsel Mr. Arun Ranga accepts the notice. Notice of the complainant/non-petitioner

No.2 has been received duly served, who is the father of non-petitioner No.3 Smt. Laxmi. With the consent of the learned counsel for the parties, the matter is being finally heard and decided.

I have heard learned counsel counsel for the parties.

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioners, who are facing trial for the offence under Section 498-A, IPC, have challenged the order dated 6-11-2006 passed by the Judicial Magistrate No.2, Jodhpur (for short, "the trial Court" hereinafter) declining to verify and record the compromise filed by non-petitioner No.3 Smt. Laxmi seeking to compound the offence.

It is contended by the learned counsel for the petitioners that non-petitioner No.3 Smt. Laxmi is the daughter of complainant/non-petitioner No.2, who married to petitioner No.1 Jai Singh Bhati and has been living with him as husband and wife. Petitioners No.2 and 3 are the parents-in-law of non-petitioner No.3 Smt. Laxmi. However, due to some misunderstanding and temptation, the non-petitioner No.3 started living with her father non-petitioner No.2 and a report was lodged by her father against the present petitioners. During pendency of the matter, the non-petitioner No.3 compromised the matter with her husband the parents-in-law and started living with her husband and as such now the non-petitioner No.3

is residing with her husband and parents-in-law at her matrimonial home and she is leading an amicable and peaceful marital life and, therefore, she filed an application before the trial Court seeking compounding the offence. The trial "Court dismissed the application on the ground that the offence under Section 498-A IPC is not compoundable.

Be that as it may, since the parties have settled the matter amicably by compromise and started living together, there remains no grievance of the non-petitioner No.3 against the present petitioners. Today, the non-petitioner No.3 is present in the Court along with her husband and states that she is leading the marital life with petitioner No.1 and there remains no grievance of the non-petitioner No.3 against her husband and parents-in-law any more. She also stated that she would not make any statement against the petitioners as now she has no grievance against them and the report lodged by her father was due to some misunderstanding and temptation.

In B.S. Joshi & ors. Vs. State of Haryana & Anr., 2003 SCC (Cri.) 848, the Hon'ble Supreme Court held that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing the FIR. The Apex Court further observed that the High Court, in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and

Section 320 Cr.P.C. does not limit or affect the powers under Section 482 Cr.P.C. It was further held that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier and that is not the object of Chapter XX-A of the IPC.

Keeping in view the decision of the Hon'ble Supreme Court in B.S. Joshi & Anr. Vs. State of Haryana & Anr. (supra), in my view, no useful purpose would be served in allowing the criminal proceedings against the petitioners, as in view of the compromise between the parties, no evidence is likely to come against the petitioners even if the proceedings are allowed to be continued. In the circumstances, therefore, allowing the proceedings to continue would be nothing more than an abuse of the process of the court.

Consequently, the miscellaneous petition is allowed. The impugned order dated 06-11-2006 passed by the Judicial Magistrate No. 2, Jodhpur is set-aside and further proceedings in Criminal Case No. 68/2006 pending before the trial Court are hereby quashed.

(H.R. PANWAR), J.

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